

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:19-CV-302-FL

ANISA WILLIAMS EL and DUSHAWN)
WILLIAMS EL,)
)
Plaintiffs,)
)
v.)
)
CITY OF FAYETTEVILLE,)
)
Defendant.¹)

ORDER

This matter is before the court for review of plaintiffs’ pro se amended complaint pursuant to 28 U.S.C. § 1915(e).² United States Magistrate Judge Kimberly A. Swank entered memorandum and recommendation (“M&R”), pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), wherein it is recommended that plaintiffs’ amended complaint be dismissed. Plaintiffs did not file objections to the M&R, and the time within which to make any objection has expired. In this posture, the issues raised are ripe for ruling.

Upon a careful review of the M&R, the court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Because no objections have been filed, the court reviews the magistrate judge’s findings and conclusions only for clear error, and need not give any explanation for adopting the M&R.

¹ The court constructively amends its case caption to reflect dismissal of former defendants Deanna Ivey, Ann Locklear, Fayetteville Police Department, Fannie Mae, and Coldwell Banker Real Estate, LLC, and to reflect joinder of defendant City of Fayetteville.

² On March 26, 2020, after adopting the recommendation of the magistrate judge and dismissing plaintiffs’ original complaint, the court referred this matter again to the magistrate judge to conduct frivolity review of plaintiffs’ amended complaint, pursuant to 28 U.S.C. § 1915.

Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir. 1983).

Here, the magistrate judge recommends dismissal of plaintiffs' claims under 42 U.S.C. § 1983 for failure to allege a city-wide policy or custom. In addition, the magistrate judge recommends that the court decline to exercise supplemental jurisdiction over plaintiffs' state law claims for defamation and intentional infliction of emotional distress.

Upon careful review of the M&R, the court finds the magistrate judge's analysis to be thorough, and there is no clear error. The court hereby ADOPTS the recommendation of the magistrate judge as its own. For the reasons stated therein, plaintiffs' amended complaint is DISMISSED WITHOUT PREJUDICE. The clerk of court is DIRECTED to close the case.

SO ORDERED, this the 29th day of October, 2020.



LOUISE W. FLANAGAN
United States District Judge